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## *The Public Service Commission State of South Carolina*

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November 2, 2005

Certified Mail  
Return Receipt Requested

John J. Pringle, Jr., Esquire  
Ellis Lawhorne & Sims, PA  
P.O. Box 2285  
Columbia, SC 29202

Lessie Hammonds, Esquire  
Office of Regulatory Staff  
P.O. Box 11263  
Columbia, SC 29211

Re: Application of Quality Telephone, Inc.  
Commission Docket No. 2005-232-C

Dear Jack and Lessie:

Enclosed please find a proposed order in the above-captioned docket, which is being delivered to you pursuant to the requirements of 26 S.C. Code Ann. Regs. 103-865 (C). As parties of record in this Quality Telephone case, you have ten (10) days from your receipt of this proposed order to file exceptions, present briefs, and/or file written requests for oral argument to the Commission, if you should desire to do so. If none of these are received by me within 10 days of your receipt of the proposed order, I will request that the Commission issue its order in this case based upon the record of the formal proceeding and the proposed order.

Thank you in advance for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "F. David Butler".

F. David Butler  
Hearing Examiner

FDB/dd  
cc: Joseph Melchers, Chief Legal Advisor

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-232-C - ORDER NO. 2005-  
NOVEMBER 2, 2005

|        |  |   |                   |
|--------|--|---|-------------------|
| IN RE: | Application of Quality Telephone, Inc. for a | ) | ORDER GRANTING    |
|        | Certificate of Public Convenience and        | ) | CERTIFICATE AND   |
|        | Necessity to Provide Local Exchange          | ) | FLEXIBLE          |
|        | Services, Exchange Access Services,          | ) | REGULATION-       |
|        | Interexchange Telecommunications Services    | ) | PROPOSED ORDER OF |
|        | and for Flexible Regulation of its Local     | ) | HEARING EXAMINER  |
|        | Exchange Services                            | ) |                   |

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Quality Telephone, Inc. (“Quality” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide local exchange, exchange access, and interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2004) and the general regulatory authority of the Commission. By its Application, Quality also requests flexible regulation of its local service offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C, and requests waiver of certain Commission regulations.

The Commission’s Docketing Department instructed Quality to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Quality and of the manner and time in which to file the appropriate

pleadings for participation in the proceeding. Quality complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (SCTC). Subsequently, the Company and SCTC entered into a Stipulation (Exhibit A to this Order) and SCTC did not participate in the hearing on the matter. Hearing Examiner F. David Butler was appointed to hear the case, pursuant to Order No. 2005-514.

A hearing was convened on October 31, 2005 at 2:30 PM in the Commission's Meeting Room in the offices of the Commission, located in Columbia, South Carolina. F. David Butler, Hearing Examiner, presided. Quality was represented by John J. Pringle, Jr., Esquire. The Office of Regulatory Staff (ORS) was represented by C. Lessie Hammonds, Esquire.

The parties announced a comprehensive settlement of the case. The Settlement Agreement is attached hereto as Exhibit B. The parties to the Settlement agreed on a number of issues. With respect to the offering of exchange access services, the Company agrees that, prior to filing an exchange access tariff with the Commission, it will submit a copy of its proposed exchange access tariff to ORS for review. The Company further agrees to make all changes suggested by ORS in order that the exchange access tariff complies with the Rules of the Commission and applicable state law. The parties also agreed on various other terms and conditions. For reasons outlined below, the Settlement is approved with the exception of one point, and the requested Certificate of Public Convenience and Necessity is granted.

Frank McGovern, President of the Company, appeared and testified in support of the Application and the Settlement. The record reveals that Quality is incorporated in Texas and registered to transact business in South Carolina as a foreign corporation. According to Mr. McGovern, Quality proposes to offer residential telephone service with optional features and bundled services such as local and long distance services in a combined package. Quality proposes to offer local exchange by leasing the unbundled network elements platform of BellSouth Telecommunications, Verizon, Sprint, and Alltel. McGovern's testimony noted that local exchange service will be offered initially within the present operating areas of BellSouth, Verizon, Sprint and Alltel, although the Settlement Agreement states that service will only be offered in BellSouth territory. The parties indicated on the record that the Settlement Agreement did not indicate the intent of the parties as to territory to be served, and that that intent was to allow Quality to serve in BellSouth, Verizon, Sprint, and Alltel territories.

Quality's services will be offered twenty-four hours per day, seven days a week. Mr. McGovern explained the Company's request for authority, and the record further reveals the Company's services, operations, and marketing procedures.

Mr. McGovern also discussed Quality's technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Mr. McGovern offered that Quality possesses sufficient financial resources to support its operations in South Carolina. With regard to management and technical capabilities, the Company has not been denied a license in any of the states in which it has applied, has had no licenses revoked in any jurisdictions, nor has it been the subject of any investigations by any

governmental regulatory agencies. The Company's Application and Mr. McGovern's testimony both evidence that Quality's management team has extensive experience in both marketing and communications.

Mr. McGovern, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610 and to be allowed to keep the Company's books at its headquarters in Texas. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts (USOA). Quality maintains its books in accordance with Generally Accepted Accounting Principles (GAAP). In addition, the Company requests that it not be required to publish local exchange directories, and therefore requests waiver of 26 S.C. Code Ann. Regs. 103-631. Quality will make arrangements with the incumbent local exchange carriers to include its customers in the incumbent's directories.

After full consideration of the applicable law, the Company's Application, the evidence presented at the hearing, and the Settlement Agreement, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. Quality is organized under the laws of the State of Texas and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Quality has no reported record of violations of regulatory laws or regulations in the jurisdictions in which it is currently operating.

3. Quality desires to provide resold local exchange services, access services, and resold interexchange telecommunications services within various areas of the State of South Carolina, namely the territories of BellSouth, Verizon, Sprint, and Alltel. The Settlement Agreement incorrectly limits service to BellSouth territory.

4. We find that Quality possesses the managerial experience and capability to operate as a non-facilities based reseller of interexchange and local services, and as a provider of access services in these territories.

5. We find, based on the financial records and balance sheets submitted by the Company, that Quality possesses sufficient financial resources to provide the services as described in its Application.

6. We find that the issuance of a Certificate of Public Convenience and Necessity to Quality to provide resold local exchange services, access services, and resold interexchange telecommunications services in South Carolina would be in the best interest of the citizens of South Carolina by increasing the level of competition in South Carolina for telecommunications services, and by increasing consumer awareness of options and services available, thereby encouraging growth and success of competitive services.

7. Quality has no plans to maintain offices in South Carolina and requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds Quality's requested waiver reasonable and understands the difficulty presented to Quality should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would

require the Company to keep its records under the USOA is reasonable. Additionally we find that waiver of 26 S.C. Code Ann. Regs. 103-631 is reasonable and in the public interest.

8. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280(B)(1) (Supp. 2004).

9. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280(B)(3) (Supp. 2004).

10. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280(B)(4) (Supp. 2004).

11. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2) (Supp. 2004).

12. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280(B)(5) (Supp. 2004).

13. Following execution of a Stipulation with intervenor South Carolina Telephone Coalition (SCTC), the SCTC withdrew its opposition to the Application and did not participate in the hearing.

14. The Settlement Agreement should be approved, except for the language that incorrectly limits the Company to serving in BellSouth territory. The Company should be granted authority to provide service in BellSouth, Verizon, Sprint, and Alltel territory.

15. Service in Alltel territory by Quality is subject to the terms of the Stipulation between Quality and the South Carolina Telephone Coalition, Hearing Exhibit 3 and Exhibit A to this Order, since Alltel is a member of SCTC.

#### **CONCLUSIONS OF LAW**

1. The Commission concludes that Quality possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that Quality will participate in the support of universally available telephone service at affordable rates to the extent that Quality may be required to do so by the Commission.

3. The Commission concludes that Quality will provide services which will meet the service standards of the Commission.

4. The Commission concludes that approval of Quality's Application to provide intrastate telecommunications services within South Carolina will serve the public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.



5. The Commission concludes that the provision of telecommunications service by Quality will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide intrastate interexchange telecommunications services, exchange access, and local telecommunications services as requested by Quality and as set forth in its Application, testimony, and the Settlement Agreement is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Quality to provide intrastate interexchange, local, and access telecommunications services in the South Carolina Service territories of BellSouth, Verizon, Sprint, and Alltel. Service in the Alltel area is subject to the Company's Stipulation with the South Carolina Telephone Coalition, Exhibit A to this Order and Hearing Exhibit 3. It should be noted that the Settlement Agreement erroneously limits Quality's service to the BellSouth area. With this one exception, the Settlement Agreement is approved as filed, and Quality and ORS shall abide by all other terms and conditions contained in the Settlement Agreement.

8. With regard to the interexchange service offerings of the Company, the Commission adopts a rate design that includes only maximum rate levels for each tariff charge. The Commission has previously adopted a rate structure incorporating maximum rate levels. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). With regard to interexchange service rates, the Company shall not adjust its interexchange service rates

below the approved maximum levels without notice to the Commission and to the public. The Company shall file its proposed rate changes, publish notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances that do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. Section 58-9-540 (Supp. 2004).

9. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended

pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

10. We conclude that Quality's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would cause undue hardship on Quality. We also grant exemption from the policies requiring the use of USOA. In addition, we grant waiver of 26 S.C. Code Ann. Regs. 103-631 which requires publication of a local telephone directory.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Quality to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission, as well as to provide local and access telecommunications services in the BellSouth, Verizon, Sprint, and Alltel territories. Service to the Alltel area is subject to the terms of the Stipulation between Quality and the South Carolina Telephone Coalition. Said Stipulation is approved. The Settlement Agreement is also approved, except for the term that limits the Company's service to BellSouth territory, a matter which was corrected by the parties on the record of this case. As stated above, the intent of the parties was for the Company to serve in BellSouth, Verizon, Sprint, and Alltel territories. This is approved as discussed above.

2. The Company's rate designs for its products shall comport to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, Quality shall file its revised tariff and an accompanying price list for any applicable rates within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

4. Quality is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. Quality shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Quality changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, Quality shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Quality shall

comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. Quality shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Quality shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp). The title of this form is "Annual Report for Interexchange Companies." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1<sup>st</sup>**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31<sup>st</sup>** of each year. The proper form for filing gross receipts information can be found at the Commission's website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp), and the appropriate form is entitled "Gross Receipts for Utility Companies."

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in

writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Quality shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, Quality requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2004), which requires that records required by the Commission’s Rules and Regulations be maintained in South Carolina. The record reveals that Quality’s principal headquarters will be located outside of South Carolina. Quality requests permission to maintain its books and records at its headquarters in its home office. The Commission finds Quality’s requested waiver reasonable and understands the difficulty presented to Quality should the waiver not be granted. The Commission therefore grants the requested waiver that Quality be allowed to maintain its books and records at its principal headquarters. However, Quality shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Quality shall promptly notify the Commission and ORS if the location of its books and records changes.

12. Quality also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA). The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Quality maintains its book of accounts in accordance with Generally Accepted Accounting Principles (GAAP). GAAP is used extensively by interexchange carriers. Moreover, Quality asserts that because it utilizes GAAP, the Commission will have a reliable means by which to evaluate Quality's operations and assess its financial fitness. Accordingly, Quality hereby requests an exemption from the USOA requirements. We grant the Company's request for the reasons stated above. We also grant the Company's request to waive 26 S.C. Code Ann. Regs. 103-631, because of the unusual difficulty that the Company would have in complying with this regulation.

13. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 15<sup>th</sup> with the Commission and ORS.

14. Quality is further required to comply with, in accordance with its Application and under Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical

services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Quality to contact the appropriate authorities regarding 911 service in the counties and cities where the company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, Quality shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company's operations as required by the 911 system.

15. This Order shall remain in full force and effect until further notice by this Commission.

BY ORDER OF THE COMMISSION:

\_\_\_\_\_  
Randy Mitchell, Chairman

ATTEST:

\_\_\_\_\_  
G. O'Neal Hamilton, Vice-Chairman

(SEAL)